(iii) The bank believes that the transaction was suspicious for any reason.

(d) *Time for reporting.*—(1) *Generally.* A national bank shall file the SAR required by paragraph (c) of this section within 30 calendar days after the date of initial detection of an act described in paragraph (c) of this section, and, in situations involving violations requiring immediate attention, such as when a reportable violation is on-going, the financial institution shall immediately notify, by telephone, the appropriate law enforcement authority in addition to filing a timely SAR.

(2) *No suspect identified.* If no suspect was identified on the date of detection of an act described in paragraph (c) of this section, the national bank may delay filing a SAR for an additional 30 calendar days after identification of a suspect, but in no case may a national bank delay filing a SAR more than 60 calendar days after the date of detecting an act described in paragraph (c) of this section.

(e) *Reports to State and local authorities.* A national bank is encouraged to file a copy of the SAR with State and local law enforcement agencies where appropriate.

(f) *Retention of records.* A national bank shall maintain a copy of any SAR filed and the original of any related documentation for a period of ten years from the date of filing the SAR, unless the OCC informs the bank in writing that the bank may discard the materials sooner. A national bank shall make all supporting documentation available to appropriate law enforcement agencies upon request. Supporting documentation shall be identified and treated as filed with the SAR.

(g) *Exemptions.* (1) A bank need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(2) A bank need not file a SAR for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f-1.

(h) *Notification to board of directors*—(1) *Generally.* Whenever a national bank files a SAR pursuant to this section, the management of the bank shall promptly notify its board of directors, or a committee of directors or executive officers designated by the board of directors to receive notice.

(2) *Suspect is a director or executive officer.* If the bank files the SAR pursuant to paragraph (c) of this section and the suspect is a director or executive officer, the bank may not notify the suspect, pursuant to 31 U.S.C. 5318(g)(2), but shall notify all directors who are not suspects.

(i) *Compliance.* Failure to file a SAR in accordance with this section and the Instructions may subject the national bank, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory actions including enforcement actions.

(j) *Obtaining SARs.* A national bank may obtain SARs and the Instructions from the appropriate OCC District Office listed in 12 CFR part 4.

(k) *Confidentiality of SARs.* SARs are confidential. Any person subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR shall decline to produce the information citing this section, applicable law (*e.g.*, 31 U.S.C. 5318(g)), or both.

Dated: June 27, 1995.

Eugene A. Ludwig,

Comptroller of the Currency .

[FR Doc. 95–16240 Filed 6–30–95; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 208, 211, and 225

[Regulations H, K, and Y; Docket No. R–0885]

Membership of State Banking Institutions in the Federal Reserve System; International Banking Operations; Bank Holding Companies and Change in Bank Control

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System (the Board) is proposing to revise its regulations on reporting of suspicious activities by the domestic and foreign banking organizations supervised by the Federal Reserve, including the reporting of suspicious financial transactions such as suspected violations of the Bank Secrecy Act (BSA). As proposed, these rules implement a new interagency suspicious activity referral process. The rules also reduce substantially the burden on banking organizations in reporting suspicious activities while enhancing access to such information by the Federal law enforcement agencies, the Federal financial institutions supervisory agencies and the Department of the Treasury.

DATES: Comments must be received on or before September 1, 1995.

ADDRESSES: Comments should refer to Docket No, R–0885, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, DC 20551. Comments also may be delivered to Room B–2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, NW (between Constitution Avenue and C Street) at any time. Comments received will be available for inspection in Room MP–500 of the Martin Building between 9 a.m. and 5 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

FOR FURTHER INFORMATION CONTACT: Herbert A. Biern, Deputy Associate Director, Division of Banking Supervision and Regulation, (202) 452–2620, or Richard A. Small, Special Counsel, Division of Banking Supervision and Regulation, (202) 452–5235; for the hearing impaired *only* contact Dorothea Thompson, Telecommunication Device for the Deaf, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Background

The Federal financial institutions supervisory agencies (the Agencies) [1] and the Department of the Treasury (the Treasury) [2] are responsible for ensuring that financial institutions apprise Federal law enforcement authorities of any known or suspected violation of a Federal criminal statute and of any suspicious financial transaction. Suspicious financial transactions, which will be the subject of regulations and other guidance to be issued by the Treasury, can include transactions that the banking organization suspects involved funds derived from illicit activities, were conducted for the purpose of hiding or disguising funds from illicit activity, in any way violated the Federal money laundering statutes (18 U.S.C. 1956 and 1957), were potentially designed to evade the reporting or recordkeeping requirements of the BSA (31 U.S.C. 5311 through 5330), and transactions that the bank believes were suspicious for any other reason.

Fraud, abusive insider transactions, check kiting schemes, money

[1] The Federal financial institutions supervisory agencies are the Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

[2] Through Treasury's Financial Crimes Enforcement Network (FinCEN).

laundering, and other crimes can pose serious threats to a financial institution's continued viability and, if unchecked, can undermine the public confidence in the nation's financial industry. The Agencies and Federal law enforcement agencies need to receive timely and detailed information regarding suspected criminal activity to determine whether investigations, administrative actions, or criminal prosecutions are warranted.

An interagency Bank Fraud Working Group (BFWG), consisting of representatives from many Federal agencies, including the Agencies and law enforcement agencies such as the U.S. Department of Justice and the Federal Bureau of Investigation, was formed in 1984. The BFWG addresses substantive issues, promotes cooperation among the Agencies and Federal and state law enforcement agencies, and improves the Federal government's response to white collar crime in financial institutions. It is under the auspices of the BFWG that the revisions to these regulations and the reporting requirements are being made.

Suspicious Activity Report

The Agencies have been working on a project to improve the criminal referral process, to reduce the reporting burden on banking organizations, and to eliminate confusion associated with the current duplicative reporting of suspicious financial transactions in criminal referral forms and currency transactions reports (CTRs). Contemporaneously, the Treasury analyzed the need to implement the procedures for reporting suspicious financial transactions by banks following the enactment of the Annunzio-Wylie Anti-Money Laundering Act of 1992. As a result of these reviews, the Agencies and Treasury approved the development of a new referral process that includes suspicious financial transaction reporting.

To implement the reporting process and to reduce unnecessary burdens associated with these various reporting requirements, the Agencies and FinCEN developed a new form for reporting known or suspected Federal criminal law violations and suspicious financial transactions. The new form is designated the Suspicious Activity Report (SAR). The new referral process and the SAR reduce the burden on financial institutions for reporting known or suspected violations and suspicious financial transactions. The Agencies anticipate that the new process will be instituted by October, 1995.

Proposal

The Board proposes to revise 12 CFR Parts 208, 211, and 225 by updating the current rules governing the filing of criminal referral reports; expanding the rules pertinent to the activities of state member banks, bank holding companies and their nonbank subsidiaries, Edge and Agreement corporations, and the U.S. branches and agencies of foreign banks to cover suspicious financial transactions; implementing the new SAR; and eliminating overly burdensome reporting requirements. This action should improve reporting of known or suspected violations and suspicious financial transactions relating to financial institutions while providing uniform data for entry into a new interagency computer database. The Board expects that each of the other Agencies will be making substantially similar changes to their criminal referral rules contemporaneously.

The principal proposed changes to the Board's current criminal referral reporting rules are discussed below. They include the following notable changes: (i) simplifying and shortening the referral form; (ii) raising the mandatory reporting thresholds for criminal offenses, thereby reducing banking organizations' reporting burdens; (iii) filing only one form with a single repository, rather than submitting multiple copies to several Federal law enforcement and banking agencies, thereby further reducing reporting burdens; and (iv) clarifying the criminal referral and suspicious financial transaction reporting requirements of the Agencies and Treasury associated with suspicious financial transactions, thereby eliminating confusion concerning the filing of referrals related to suspicious financial transactions of less than $10,000 and eliminating duplicative referrals.

The proposal also involves the manner in which financial institutions file a SAR. In following the instructions on a SAR, banking organizations may file the referral form in several ways, including submitting an original form or a photocopy, and they may file a SAR by magnetic means, such as by a computer disk. In the future, the Board and the other Agencies anticipate that a banking organization will be able to file a SAR electronically.

The Agencies, working with FinCEN, are developing computer software to assist financial institutions in preparing and filing SARs. The software will allow a banking organization to complete a SAR, to save the SAR on its computers, and to print a hard copy of the SAR for its own records. The computer software will also enable a financial institution to file a SAR using various forms of magnetic media, such as computer disk or magnetic tape. The Board will make the software available to all domestic and foreign banking organizations it supervises.

The changes are being made to § 208.20 of Regulation H of the Board (12 CFR 208.20) relating to the criminal referral reporting responsibilities of state member banks. Sections 211.8 and 211.24(f) of Regulation K of the Board and § 225.4(f) of Regulation Y of the Board make § 208.20 of Regulation H of the Board applicable to Edge and Agreement corporations, the U.S. branches and agencies of foreign banks (except a Federal branch or Federal agency or a state branch that is insured by the Federal Deposit Insurance Corporation), a representative office of a foreign bank, and bank holding companies and their nonbank subsidiaries, respectively. This means that the changes applicable to state member banks discussed below will also be applicable to the suspicious activity reporting responsibilities of all of the other domestic and foreign banking organizations supervised by the Federal Reserve, including bank holding companies, Edge corporations, and the U.S. branches and agencies of foreign banks. The only modifications being made to the current provisions of §§ 211.8 and 211.24(f) of Regulation K, and § 225.4(f) of Regulation Y are changes to the name of form—from ''criminal referral form'' to a SAR—and a change in the heading of § 225.4(f) of Regulation Y to ''Suspicious Activity Report'' from ''Criminal referral report.''

Section 208.20(a) Purpose

The proposal clarifies the scope of the current rule. Under the proposal, the SAR replaces the various criminal referral forms that the Agencies currently require banking organizations to file. Also a state member bank or other type of financial institution files a SAR instead of a currency transaction report (CTR) to report a suspicious financial transaction involving less than $10,000 in currency.[3]

[3] The BSA requires all financial institutions to file CTRs in accordance with the Treasury's implementing regulations (31 CFR Part 103). Part 103 requires a bank to file a CTR whenever a currency transaction exceeds $10,000. If a currency transaction exceeds $10,000 and is suspicious, the state member bank, under these new requirements, will file both a CTR (reporting the currency transaction) and a SAR (reporting the suspicious criminal aspect of the transaction). If a currency transaction equals or is below $10,000 but is suspicious, the bank will only file a SAR.

Combining suspicious financial transaction reporting and criminal referral reporting should reduce confusion, increase the accuracy and efficiency of reporting, and reduce the burden on financial institutions in reporting known or suspected violations, including suspicious financial transactions.

Section 208.20(b) Definitions

In addition to the current definition of ''institution-affiliated party'' set forth at 12 CFR 208.20(b), the proposed § 208.20(b) defines the following terms: ''FinCEN'' and ''SAR.'' The definitions should make the rule easier to interpret and apply.

Section § 208.20(c) Reports Required

Proposed § 208.20(c), which replaces the current subsection, clarifies and expands the provision that requires a state member bank to file a SAR. This provision raises the dollar thresholds that trigger a filing requirement. It also modifies the scope of events that a state member bank must report by requiring that a bank file a SAR to report a suspicious financial transaction.

Under the current rule, the Board requires a state member bank to file a criminal referral form with many different Federal agencies. The proposal, which replaces all other requirements for filing criminal and suspicious financial transaction referrals, requires a bank to file only a single SAR at one location, rather than the multiple copies of the criminal referral form that must now be filed with various Federal agencies.

Under proposed § 208.20(c), a state member bank effectively files a SAR with all appropriate Federal law enforcement agencies by sending a single copy of the SAR to FinCEN, whose address will be printed on the SAR.

FinCEN will input the information contained on the SARs into a newly created database that FinCEN will maintain. This process meets the regulatory requirement that a banking organization refer any known or suspected criminal violation to the various Federal law enforcement agencies. The database will enhance Federal law enforcement and bank supervisory agencies' ability to track, investigate, and prosecute, criminally, civilly, and administratively, individuals and entities suspected of violating Federal criminal law.

This change ensures that all SARs are placed in the database at FinCEN and that the information is made available on computer to the appropriate law enforcement and supervisory agencies as quickly as possible. This change will reduce the filing burdens of banking organizations.

The proposal modifies current § 208.20(c)(2), which requires reporting of known or suspected criminal activity when a state member bank has a substantial basis for identifying a non-insider suspect where bank funds or other assets involve or aggregate $1,000 or more. Proposed § 208.20(c)(2) raises the reporting threshold to $5,000, thereby reducing the reporting burden on banking organizations.

The proposal also modifies current § 208.20(c)(3), which requires a state member bank to report any known or suspected criminal violation involving $5,000 or more where the bank has no substantial basis for identifying a suspect. Specifically, proposed § 208.20(c)(3) raises the dollar reporting threshold from $5,000 to $25,000, thereby reducing further the reporting burden on banking organizations.

Proposed § 208.20(c)(4) requires a state member bank to report any financial transaction, regardless of the dollar amount, that: (i) the bank suspects involved funds derived from illicit activity, was conducted for the purpose of hiding or disguising funds from illicit activity, or in any way violated Federal money laundering statutes (18 U.S.C. 1956 and 1957); (ii) the bank suspects was potentially designed to evade the reporting or recordkeeping requirements of the BSA (31 U.S.C. 5311 through 5330); or (iii) the bank believes to be suspicious for any reason.

Section 208.20(d) Time for Reporting

Proposed § 208.20(d) sets forth the time requirements a state member bank must meet when filing a SAR. The proposal clarifies the reporting requirement in the event a suspect or group of suspects is not immediately identified. It does not substantively change the current requirements.

Section 208.20(e) Reporting to State and Local Authorities

No changes are being proposed to the current § 208.20(e).

Section 208.20(f) Exceptions

No changes are being made to the current § 208.20(f).

Section 208.20(g) Retention of Records

Current § 208.20(g) requires a state member bank to retain a copy of the criminal referral form and the original of any related documentation relating to a referral for a period of 10 years from the date of the report. No changes are being made to this requirement. The proposal clarifies the requirement that banking organizations make all supporting documentation available to appropriate law enforcement agencies upon request. This approach ensures that Federal law enforcement agencies and the Agencies, upon request, have access to any documentation necessary to prosecute a violation or pursue an administrative action by requiring financial institutions to identify and preserve underlying documentation for 10 years and treat such underlying documentation as having been filed with the SAR.

Section 208.20(h) Notification of the Board of Directors

Current § 208.20(h) requires notification regarding the filing of a SAR to a state member bank's board of directors by the bank's management. To reduce burdens on the boards of directors of state member banks, especially those large banks that file many SARs, the proposal recognizes that the required notification may be made to a committee of the board.

Section 208.20(i) Compliance

Current § 208.20(i) is headed ''Penalty''. The heading of the subsection is changed to reflect better the range of informal and formal supervisory actions that the Board can take to address suspicious activity reporting deficiencies.

Section 208.20(j) Confidentiality of SARs

The Board proposes to add a new subsection relating to the confidentiality of a SAR. Proposed § 208.20(j) states that a SAR and the information contained in a SAR are confidential, and that a state member bank should decline to produce a SAR citing applicable law (e.g., 31 U.S.C. 5318(g)) and the provisions of § 208.20 of Regulation H of the Board.

Comments

The Board invites public comment on all aspects of this proposal.

Regulatory Flexibility Act

Because this proposal is designed to reduce the burden on financial institutions for reporting suspicious financial transactions, the Board certifies that this proposed regulation will not have a significant financial impact on a substantial number of small banks or other small entities.

Paperwork Reduction Act

In accordance with Section 3507 of the Paperwork Reduction Act of 1980, the suspicious activity report regulation was approved under authority delegated

to the Board by the Office of Management and Budget. The Board has determined that the proposed regulations may reduce the burden on reporting institutions through the use of a simplified, shorter form, the filing of one form only, the raising of reporting thresholds, and the elimination of the submission of supporting documentation with a referral, as well as by the Board's provision to banking organizations of computer software to prepare the form. The estimated average burden associated with the collection of information contained in a SAR is approximately .6 hours per respondent. The burden per respondent will vary depending on the nature of the suspicious activity being reported.

Comments concerning the accuracy of this burden estimate should be directed to Mary M. McLaughlin, Division of Research and Statistics, Mail Stop 97, Federal Reserve Board, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

Executive Order 12291

The Board has determined that this proposed regulation is not a ''major rule'' and therefore does not require a regulatory impact analysis.

List of Subjects

12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Crime, Currency, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Securities.

12 CFR Part 211

Exports, Federal Reserve System, Foreign banking, Holding companies, Investments, Reporting and recordkeeping requirements.

12 CFR Part 225

Administrative practice and procedures, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Parts 208, 211, and 225 of chapter II of title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for 12 CFR part 208 continues to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321–338a, 371d, 461, 481–486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p-1, 3105, 3310, 3331–3351, and 3906–3909; 15 U.S.C. 78b, 781(b), 781(g), 781(i), 78o–4(c)(5), 78q, 78q–1 and 78w; 31 U.S.C. 5318.

2. Section 208.20 is revised to read as follows:

§ 208.20 Suspicious Activity Reports.

(a) *Purpose.* This section ensures that a state member bank files a Suspicious Activity Report when it detects a known or suspected violation of Federal law or suspicious financial transaction. This section applies to all state member banks.

(b) *Definitions.* For the purposes of this section:

(1) *FinCEN* means the Financial Crimes Enforcement Network of the Department of the Treasury.

(2) *Institution-affiliated party* means any institution-affiliated party as that term is defined in Sections 3(u) and 8(b)(3) and (4) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u) and 1818(b)(3) and (4)).

(3) *SAR* means a Suspicious Activity Report form proscribed by the Board.

(c) *SARs required.* A state member bank shall file a SAR with the appropriate Federal law enforcement agencies and the Department of the Treasury and in accordance with the form's instructions, by sending a completed SAR to FinCEN in the following circumstances:

(1) Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed against the bank or involving a transaction conducted through the bank, where the bank has a substantial basis for identifying one of its directors, officers, employees, agents, or other institution-affiliated parties as having committed or aided in the commission of a criminal act regardless of the amount involved in the violation.

(2) Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $5,000 or more in funds or other assets, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, and that the bank has a substantial basis for identifying a possible suspect or group of suspects.

(3) Whenever the state member bank detects any known or suspected Federal criminal violation, or pattern of criminal violations, committed against the bank or involving a transaction or transactions conducted through the bank and involving or aggregating $25,000 or more in funds or other assets, where the bank believes that it was either an actual or potential victim of a criminal violation, or series of criminal violations, or that the bank was used to facilitate a criminal transaction, even though there is no basis for identifying a possible suspect or group of suspects.

(4) Whenever the state member bank detects any financial transaction conducted, or attempted, at the bank involving funds derived from illicit activity or for the purpose of hiding or disguising funds from illicit activities, or for the possible violation or evasion of the Bank Secrecy Act reporting and/or recordkeeping requirements, even if there is no substantial basis for identifying a possible suspect or group of suspects. A suspicious activity report must be filed for all instances where money laundering is suspected or where the bank believes that the transaction was suspicious for any reason, regardless of the identification of a potential suspect or group of suspects or the amount involved in the violation.

(d) *Time for reporting.* A state member bank is required to file a SAR no later than 30 calendar days after the date of initial detection of the possible, known or suspected criminal violation or series of criminal violations. If no suspect was identified on the date of detection of the incident triggering the filing, a state member bank may delay filing a SAR for an additional 30 calendar days after the identification of the suspect. In no case shall reporting be delayed more than 60 calendar days after the date of the loss or the possible known or suspected criminal violation or series of criminal violations. In situations involving violations requiring immediate attention, such as when a reportable violation is on-going, the financial institution shall immediately notify, by telephone, the appropriate law enforcement authority in addition to filing a timely SAR.

(e) *Reports to state and local authorities.* State member banks are encouraged to file a copy of the SAR with state and local law enforcement agencies where appropriate.

(f) *Exceptions.* (1) A state member bank need not file a SAR for a robbery or burglary committed or attempted that is reported to appropriate law enforcement authorities.

(2) A state member bank need not file a SAR for lost, missing, counterfeit, or stolen securities if it files a report pursuant to the reporting requirements of 17 CFR 240.17f-1.

(g) *Retention of records.* A state member bank shall maintain a copy of

any SAR filed and the original of any related documentation for a period of 10 years from the date of filing the SAR. A state member bank must make all supporting documentation available to appropriate law enforcement agencies upon request. Supporting documentation shall be identified and treated as filed with the SAR.

(h) *Notification to board of directors.* The management of a state member bank shall promptly notify its board of directors, or a committee thereof, of any report filed pursuant to this section.

(i) *Compliance.* Failure to file a SAR in accordance with this section and the form's instructions may subject the state member bank, its directors, officers, employees, agents, or other institution-affiliated parties to supervisory action.

(j) *Confidentiality of SARs.* SARs are confidential. Any person subpoenaed or otherwise requested to disclose a SAR or the information contained in a SAR shall decline to produce the information citing this section, applicable law (*e.g.,* 31 U.S.C. 5318(g)), or both.

PART 211—INTERNATIONAL BANKING OPERATIONS (REGULATION K)

1. The authority citation for part 211 is revised to read as follows:

Authority: 12 U.S.C. 221 *et seq.,* 1818, 1841 *et seq.,* 1843 *et seq.,* 3100 *et seq.,* 3901 *et seq.*

§§ 211.8 and 211.24 [Amended]

2. In §§ 211.8 and 211.24(f) remove the words ''criminal referral form'' and add, in their place, the words ''suspicious activity report''.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (REGULATION Y)

1. The authority citation for 12 CFR part 225 continues to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818, 1831i, 1831p-1, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3310, 3331–3351, 3907, and 3909.

§ 225.4 [Amended]

2. In § 225.4 the heading of paragraph (f) is revised to read ''*Suspicious Activity Report.*''.

3. In § 225.4(f) remove the words ''criminal referral form'' and add, in their place, the words ''suspicious activity report''.

By order of the Board of Governors of the Federal Reserve System, June 28, 1995.

William W. Wiles,

Secretary of the Board.

[FR Doc. 95–16250 Filed 6–30–95; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

16 CFR Part 436

Franchise Rule Review Public Workshop Conference

AGENCY: Federal Trade Commission.

ACTION: Public workshop conference

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') will hold a public workshop conference in connection with the regulatory review of the Commission's Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures (''the Francise Rule'' or ''the Rule'').

DATES: The public workshop conference will be held at the Crown Sterling Suites, 7901 34th Avenue South, Bloomington, Minnesota 55425, on September 12 through 14, 1995, from 9 a.m. until 5 p.m. each day.

ADDRESSES: Notification of interest in participating in the public workshop conference should be submitted in writing on or before August 11, 1995, to Myra Howard, Division of Marketing Practices, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Steven Toporoff, (202) 326–3135, or Myra Howard, (202) 326–2047, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington DC 20580.

SUPPLEMENTARY INFORMATION: On April 7, 1995, the Commission published a request for public comment on the Franchise Rule. 60 FR 17656 (April 7, 1995). As part of its systematic review of Commission regulations and guides, the Commission requested comments about the overall costs and benefits of the Franchise Rule and its overall regulatory and economic impact. The Commission also requested comment on whether the Rule should be modified so as to: (1) Replace the current Rule disclosure requirements with those set forth in the revised Uniform Franchise Offering Circular Guidelines, approved by the Commission on December 30, 1993; (2) modify the scope of disclosure requirements for business opportunity ventures; (3) clarify the applicability of the Rule to trade show promoters; and (4) require the disclosure of earnings information. Written comments will be accepted on or before August 11, 1995. In its request for comment on the Franchise Rule, the Commission also stated that the FTC staff would conduct a Public Workshop Conference to discuss the written comments received during the rule review.

The Public Workshop Conference will afford Commission staff and interested parties an opportunity to discuss openly issues raised during the rule review, and, in particular, to examine publicly any areas of significant controversy or divergent opinions that are raised in the written comments. Commission staff will consider the views and suggestions made during the conference, in conjunction with the written comments, in formulating its final recommendation to the Commission concerning the Franchise Rule.

The Commission staff will select a limited number of parties to represent the significant interests affected by the Franchise Rule. These parties will participate in an open discussion of the issues. It is contemplated that the selected parties might ask and answer questions based on their respective comments.

In addition, the conference will be open to the general public. Members of the general public who attend the conference may have an opportunity to make a brief oral statement presenting their views on issues raised in the rule review process. Oral statements of views by members of the general public will be limited to a few minutes. The time allotted for these statements will be determined on the basis of the time available and the number of persons who wish to make statements. The discussion will be transcribed and placed on the public record. In addition, written submissions of views, or any other written or visual materials, will be accepted during the conference and will be made part of the public record.

To the extent possible, Commission staff will select parties to represent the following affected interests: Franchisors; franchisees; business opportunity promoters; business opportunity purchasers; franchise and business opportunity trade shows organizers; franchise and business opportunity brokers; franchise consultants; economists and academicians; Federal, State and local law enforcement and regulatory authorities; and any other interests that Commission staff may identify and deem appropriate for representation.

Parties representing the above-referenced interests will be selected on the basis of the following criteria:

1. The party submits a comment during the comment period ending on August 11, 1995.

2. The party notifies Commission staff in writing of its interest and, if required, authorization to represent an affected interest, on or before August 11, 1995.